



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 9945545

Date: OCT. 19, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a research associate engaged in the cellular and molecular mechanisms of carcinogenesis, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition concluding that although the Petitioner met the initial evidentiary requirements, she did not establish the requisite national or international acclaim, and standing in the overall field, to qualify as an alien of extraordinary ability.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

According to her curriculum vitae, the Petitioner received her Master of Science degree in immunology at [redacted] University in 2003 and her Doctor of Philosophy degree in cell biology at the [redacted] Academy of Sciences in 2009. At the time of filing in March 2019, she was employed as a postdoctoral research associate at [redacted] in [redacted] Minnesota in the Department of Biochemistry and Molecular Biology, where her research work focused on the roles of the [redacted] and the immune checkpoint regulator [redacted] in [redacted] cancers, including breast cancer and pancreatic cancer.

In denying the petition, the Director determined that the Petitioner did not indicate that she received a major, internationally recognized award, and that she therefore must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director concluded that the Petitioner met all three of the initial evidentiary criteria claimed by her, relating to judging under 8 C.F.R. § 204.5(h)(3)(iv), original contributions of major significance under 8 C.F.R. § 204.5(h)(3)(v), and authorship of scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi). The Petitioner's involvement in peer review of manuscripts for professional journals constitutes participation as a judge of the work of others in the same or allied field under 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner has also authored scholarly articles published in professional publications under 8 C.F.R. § 204.5(h)(3)(vi). However, for the reasons discussed below, we do not agree with the Director's finding that the Petitioner satisfied the original contributions criterion. Accordingly, after reviewing all the evidence in the record, we find that the Petitioner meets only two of the ten initial evidentiary criteria.

Evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v)

As evidence under this criterion, the Petitioner submitted partial copies of her publications, citation evidence for her published work, letters from experts in the field, and other evidence. As mentioned previously, the Director found that this documentation demonstrated the Petitioner's original contributions of major significance in the field. In order to fulfill the regulation at 8 C.F.R.

§ 204.5(h)(3)(v), a petitioner must establish that not only has she made original contributions but that they have been of major significance in the field.¹ For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. For the reasons outlined below, we find that the documentation submitted does not sufficiently demonstrate that the Petitioner meets the requirements of this criterion. Accordingly, the Director's determination on this issue will be withdrawn.

On appeal, the Petitioner emphasizes that at the time she filed her petition she had authored 17 articles in professional journals. As one type of evidence of the impact of her work, she provided a March 2019 Google Scholar citation history reflecting 214 cumulative citations to those articles, authored by her between 2003 and 2018. Specifically, the record shows that her six highest cited articles received 94 (*Biochemical and Biophysical Research Communications*), 37 (*Cellular Immunology*), 21 (*The Journal of Immunology*), 15 (*Cell Biology International*), 13 (*Oncogene*), and 10 (*Biochemistry & Physiology*) citations, respectively.² While the Petitioner's citations, both individually and collectively, show that field has noticed her work, she has not established that such rates of citation are sufficient to demonstrate a level of interest in her field commensurate with contributions "of major significance in the field."³

As another form of evidence under this criterion, the Petitioner contends that a number of experts have offered testimony regarding the significance of her work.⁴ Although several of the letters assert that the Petitioner's original scientific discoveries have "significantly advanced the field of understanding the cellular and molecular mechanisms of disease states and cancer biology," they do not sufficiently explain or justify their assertions. For example, [REDACTED] the Petitioner's former supervisor during her master's studies at [REDACTED] University, discusses the Petitioner's work on the molecular mechanisms of a case of [REDACTED] occurring in an infant. He asserts that the Petitioner's work detailing a specific mutation as a major factor in the first reported case of [REDACTED] deficiency in China "is of paramount importance for the development of effective therapeutic strategies that can target the specific location of the mutation she identified to treat [REDACTED] and can "advance the field's ability to screen family members for [REDACTED] deficiency." He does not explain how other researchers have used this information to date, nor does the record show that therapeutic treatments or screening tests have been derived from this particular research. In addition, as [REDACTED]'s letter only discusses the Petitioner's research findings regarding a case of infant [REDACTED] it does not provide sufficient support for his additional assertion that the Petitioner's work "has had a widespread impact on the advancement of novel therapeutic strategies to improve patient outcomes for the millions of cancer patients across the world."

¹ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 8-9* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

² The Petitioner's remaining 11 publications received between 1 and 8 citations, with four articles garnering no citations.

³ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8 (providing an example that peer-reviewed articles in scholarly journals that have provoked widespread commentary or received notice from others working in the field, or entries (particularly a goodly number) in a citation index which cite the individual's work as authoritative in the field, may be probative of the significance of the person's contributions to the field of endeavor).

⁴ Although we discuss only a sampling of these letters we have reviewed and considered each one.

[redacted] the Petitioner's former supervisor at the [redacted] Academy of Sciences, indicates the Petitioner obtained her Ph.D. in cell biology for her research involving [redacted] therapies for [redacted] and the molecular mechanisms underlying the treatment of [redacted] with the FDA-approved drug [redacted]. He explains that the Petitioner developed a novel method to generate [redacted] progenitor cells for transplantation into [redacted] patients to create functioning [redacted] cells for the treatment of [redacted]. He asserts that the Petitioner's novel method will "enable the development of novel [redacted] treatments for [redacted]." His letter does not explain how the Petitioner's novel method has been widely implemented or how it has been regarded by the field as a contribution of major significance. In addition, [redacted] noted that the Petitioner conducted research to characterize [redacted]'s effects on [redacted] cells, which recent research has demonstrated play a role in [redacted]. He asserts that the Petitioner's finding that [redacted]'s effectiveness for the treatment of [redacted] is principally a function of its [redacted] cells, rather than [redacted] cells as was previously hypothesized, identifies [redacted] as a novel pharmaceutical target for the treatment of [redacted]. His letter does not demonstrate, however, that the Petitioner's research has resulted in new drugs for the treatment of [redacted] that are available in the marketplace; rather, it appears that such an impact remains prospective in nature.

The record also contains a letter from [redacted] the Petitioner's supervisor when she was an instructor at [redacted] University of [redacted]. [redacted] states that the Petitioner conducted research on the mechanism by which the natural compound [redacted] lowers [redacted] levels and reduces [redacted] in [redacted], "in order to advance the prescription of [redacted] and related compounds in this widespread disease." He provides that based on the Petitioner's work, showing the molecular mechanism by which [redacted] reduces blood glucose levels by activating insulin signaling through the [redacted] activity, clinical use of [redacted] in treating [redacted] was "advanced" and "novel drugs specifically designed to [redacted] activity can be developed." [redacted] does not indicate that based on the Petitioner's work the prescription of [redacted] for [redacted] has become standard clinical practice or that [redacted] drugs have been developed. Rather, his letter discusses how the Petitioner's findings may impact the field at some point in the future but does not demonstrate how her work already qualifies as a contribution of major significance in the field. In addition, [redacted]'s letter only discusses the Petitioner's research findings regarding the mechanism by which [redacted] lowers blood glucose levels and does not provide sufficient support for his additional assertion that the Petitioner's work has advanced the development of novel therapies for cancer.

[redacted] the Petitioner's supervisor at [redacted] provides information regarding the Petitioner's findings as a postdoctoral research fellow and research associate at [redacted] on the roles of the [redacted] and the immune checkpoint regulator [redacted] in [redacted] cancers, including breast cancer and pancreatic cancer. [redacted] explains that [redacted] is known to regulate essential cellular events that occur during cancer metastasis, and the [redacted] is a therapy for [redacted]. The Petitioner conducted research on the mechanisms by which [redacted] is linked to breast cancer metastasis and promotes the [redacted] pancreatic ductal adenocarcinoma (PDAC). Her research determined that targeting [redacted] inhibits breast cancer metastasis and slows the progression of PDAC, and that [redacted] plays an important role in enabling cancer cells to avoid immune attack by regulating [redacted]. [redacted] indicates that the Petitioner's research demonstrated that [redacted] is a [redacted] and [redacted] for preventing the metastasis of breast cancer and PDAC and enhancing immune checkpoint [redacted].

therapies for [REDACTED]. She asserts that the Petitioner's research contributions have "identified target molecules and cellular and molecular mechanisms that enable development of improved treatments for breast and pancreatic cancer," but she does not indicate that improved treatments for breast and pancreatic cancer have already been developed based on the Petitioner's research findings.

The Petitioner also provided an expert testimonial letter from [REDACTED] a professor at University [REDACTED] highlighting the Petitioner's aforementioned research findings at [REDACTED] University, [REDACTED] University [REDACTED] and [REDACTED] [REDACTED] asserts that the Petitioner's "contributions have enabled the development of treatments for hyperlipidemia, diabetes, multiple sclerosis, breast cancer, and pancreatic cancer," although we find inadequate corroboration of this statement in the supporting documentation.⁵

In addition, several authors of the letters asserted that they have utilized the Petitioner's findings in their research. For instance, [REDACTED] a professor of [REDACTED] oncology at the University [REDACTED], who cited to the Petitioner's 2015 *Oncogene* article in his review article "[REDACTED]" (*Trends in Cancer*), stated that the Petitioner's work "clarified the vital role of [REDACTED] . . . in regulating tumor growth and metastasis" and provided "direction for further investigations." He asserted her research has been "of major significance for the development of novel diagnostic [REDACTED] and therapeutic [REDACTED] to improve the success of cancer therapy." His letter does not demonstrate that the Petitioner's research has resulted in new anti-cancer drugs or [REDACTED] that are available in the marketplace; rather, it appears that that the Petitioner's work has potential to majorly impact the field in the future. On appeal, the Petitioner provides a partial copy of [REDACTED]'s article showing his citation to her work, and maintains that this citation and others in the record show that her work was singled out for special attention, but she has not established that the impact of her work on the overall fields of cell or molecular biology rises to the level of an original contribution of major significance.⁶ The article, the stated purpose of which is to "review the [REDACTED] signaling axis in cancer," discusses more than 60 source articles in similar terms; there is no special emphasis on the Petitioner's work relative to the hundreds of researchers who contributed to the other cited articles. This article and others like it acknowledge the Petitioner's contributions to the advancement of what appears to be an active area of research but are not indications that her work has substantially influenced the field or otherwise rises to the level of an original contribution of major significance in the field.

[REDACTED] a professor of chemistry and biochemistry at [REDACTED] cited to the Petitioner's 2010 *Biochemical and Biophysical Research Communications* article in his 2011 article [REDACTED] (*Biochimie*). He indicates that the Petitioner's work demonstrated a previously unknown mechanism of [REDACTED]

⁵ We further note that [REDACTED]'s letter and several others identify an additional original contribution, that the Petitioner has shown that [REDACTED] signal promotes metastasis of [REDACTED] by activating [REDACTED] [REDACTED] and performs functions independent of [REDACTED]. Those letters reflect that the Petitioner "is preparing her findings for publication in a leading journal," but the record does not reflect that her research in this area had been published at the time the petition was filed on March 28, 2019. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

⁶ Although we discuss a sample article, we have reviewed and considered each one.

effects and “provided valuable information for developing a novel therapeutic [redacted] in the treatment of [redacted]” [redacted] a professor of behavioral genetics at the University of [redacted] cited to the Petitioner’s 2009 *Journal of Immunology* article in his review article [redacted] (*Experimental Neurology*). He states that the Petitioner’s finding that the drug [redacted] exerts a therapeutic effect against [redacted] by preventing the development of [redacted] cells is “of major significance due to its impact on our understanding of the [redacted] pathway” and “can be used to develop novel therapies for neurological diseases . . . that function by inhibiting the effects of the [redacted] imbalance.”⁷ While the aforementioned scientists have cited to the Petitioner’s work, the record does not show that her findings have affected the field in a major way, that her research has been widely utilized or heavily cited, or that her work otherwise constitutes contributions of major significance in the field. This evidence confirms that others were able to build upon the Petitioner’s work and apply it to their own research. But it does not show that the impact of her work on the overall field rises to the level of an original contribution of major significance. The fact that the Petitioner has published articles that other researchers have referenced is not, by itself, indicative of a contribution of major significance. Publications are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of “major significance.”

On appeal, the Petitioner emphasizes that her most recent publications focus on “elucidating the role of [redacted] in cancer” which she asserts is “a very specialized research area” and argues that an equitable comparison of her work would be to those researchers who work in “this area of the field.” She argues that her “substantial impact on the field” is shown by documentation submitted from PubMed indicating that “of the 20 articles tagged with [redacted] and ‘cancer’” the Petitioner “has authored 25% of scholarly articles . . . and had her work referenced in 47% of the remaining articles.” However, the Petitioner’s current research appears to be conducted in broad fields such as cell biology, molecular biology, cancer biology, and sub-specialties such as carcinogenesis. The Petitioner’s identification of a “specialized research area” as a field of expertise is a narrowing of her field to an extent which prevents meaningful comparison. In this case, while the record establishes the Petitioner’s involvement in various research projects, it does not show the Petitioner’s influence on the field of cell or molecular biology as a whole. The submissions do not demonstrate her impact at a level consistent with a finding of “major significance in the field.”

The letters considered above primarily contain broad attestations of the significance of the Petitioner’s research studies without providing specific examples of original contributions that rise to a level consistent with major significance. Letters that specifically articulate how a petitioner’s contributions are of major significance to the field and its impact on subsequent work add value.⁸ Letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁹ USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). The authors’ assertions in the above-referenced letters do not explain how the Petitioner’s research findings have been widely implemented or relied upon by others in the field, or explain how her “contributions

⁷ On appeal, the Petitioner provides four additional papers citing to her work which were published in professional journals subsequent to the filing of the petition in March 2019. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

⁸ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁹ *Id.* at 9.

have enabled the development of treatments for hyperlipidemia, diabetes, multiple sclerosis, breast cancer, and pancreatic cancer.” Without additional detail explaining her accomplishments relating to new or innovative techniques or findings, the letters discussed above do not establish that the Petitioner’s research has had a demonstrable impact in her field commensurate with a contribution of major significance. Simply stating that the work is important or that it has potential to majorly impact the field in the future is not sufficient. The expert opinion evidence reviewed in its totality does not establish how the Petitioner has already made a contribution of major significance in the field, rather than generally discussing the prospective, potential impacts of her research.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r. 1994).

Here, the Petitioner has reviewed manuscripts, conducted original research, and authored scholarly articles. Regarding the Petitioner’s work as the judge of others, she has not presented documentation that sets her apart from others in her field, such as evidence that she has a consistent history of completing a substantial number of review requests relative to others, served in an editorial position for a distinguished journal or publication, or chaired a technical committee for a reputable conference, to establish that her peer review experience places her among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

Documentation submitted on appeal from Publons.com does not provide enough details to substantiate the Petitioner’s claim that her number of completed manuscript reviews places her among the small percentage at the very top of her field; it does not indicate how Publons derives its rankings, whether its statistics are based on self-reported information rather than derived from an impartial source, and how its statistics relate to the field as a whole. In addition, letters submitted from several journals indicating the Petitioner was selected as a peer reviewer based on subject matter expertise, and not upon notable achievements or acclaim, do not demonstrate that her judging experience is indicative of her placement among the small percentage who have risen to the very top of the field. Further, as all but four of the Petitioner’s reviews occurred between 2015 and 2018, the Petitioner did not establish that her judging experience over a three-year period contributes to a finding that she has a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723 at 59.

Lastly, the Petitioner has not demonstrated, through her citation evidence or expert testimonials, that her research work is indicative of sustained national or international acclaim at the very top of the field. *See* section 203(b)(1)(A) of the Act.

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.